
**APPEALS BOARD
UTAH LABOR COMMISSION**

COSMO WILLIAM MOCCIA,

Petitioner,

vs.

**SAN JUAN HEALTHCARE
SERVICES CORP.,**

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 8-06-0573

Cosmo William Moccia asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of Mr. Moccia's employment discrimination complaint against San Juan Healthcare Services Corp. ("San Juan" hereafter).

The Appeals Board exercises jurisdiction in this matter pursuant to Utah Code Annotated §63-46b-12 and § 34A-5-107(11).

BACKGROUND AND ISSUE PRESENTED

This matter arises from Mr. Moccia's allegation that San Juan violated the Utah Antidiscrimination Act by denying him employment on account of his age. The Utah Antidiscrimination and Labor Division (UALD) investigated Mr. Moccia's complaint but found no reasonable cause to believe the alleged discrimination had occurred. Mr. Moccia challenged UALD's determination by requesting an evidentiary hearing on his complaint. The Commission assigned Judge La Jeunesse to preside over the hearing.

On June 19, 2007, Judge La Jeunesse held a pre-hearing conference with the parties and then ordered Mr. Moccia to file a statement supporting his discrimination complaint by July 5, 2007. On June 20, 2007, Mr. Moccia asked for an indefinite suspension of Judge La Jeunesse's order, but Judge La Jeunesse denied that request. Thereafter, Mr. Moccia failed to file the required statement or to take any other action to prosecute his discrimination complaint. On October 24, 2007, San Juan moved to dismiss Mr. Moccia's complaint. Mr. Moccia did not respond. On November 7, 2007, Judge La Jeunesse granted San Juan's request and dismissed Mr. Moccia's complaint.

Mr. Moccia now asks the Appeals Board to reinstate his complaint against San Juan. In support of his request he alleges, incorrectly, that Judge La Jeunesse extended the trial date in this matter. Mr. Moccia also describes his efforts to obtain legal counsel.

ORDER AFFIRMING ALJ'S DECISION
WILLIAM COSMO MOCCIA
PAGE 2 OF 2

DISCUSSION AND CONCLUSION OF LAW

In his capacity as presiding officer in this proceeding, Judge La Jeunesse properly established a schedule for the parties to follow in preparing for litigation. In light of Mr. Moccia's failure to comply with that schedule or to reply to San Juan's motion to dismiss, it was appropriate for Judge La Jeunesse to dismiss Mr. Moccia's complaint. The Appeals Board has carefully considered Mr. Moccia's explanation but finds nothing therein to justify his inaction. Under these circumstances, the Appeals Board concurs with Judge La Jeunesse's dismissal of Mr. Moccia's complaint.

ORDER

The Appeals Board affirms Judge La Jeunesse's decision. It is so ordered.

Dated this 26th day of March, 2008.

Colleen S. Colton, Chair

Patricia S. Drawe

Joseph E. Hatch

NOTICE OF APPEAL RIGHTS

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.